

OPEN MEETING ITEM

COMMISSIONERS
JEFF HATCH-MILLER - Chairman
WILLIAM A. MUNDELL
MARC SPITZER
MIKE GLEASON
KRISTIN K. MAYES

ORIGINAL



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ARIZONA CORPORATION COMMISSION

22

DATE: April 15, 2005

DOCKET NO: W-01445A-05-0007

TO ALL PARTIES:

Enclosed please find the recommendation of Administrative Law Judge Marc E. Stern. The recommendation has been filed in the form of an Opinion and Order on:

ARIZONA WATER COMPANY
(CC&N EXTENSION)

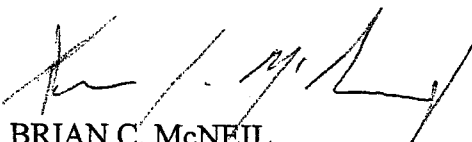
Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the recommendation of the Administrative Law Judge by filing an original and thirteen (13) copies of the exceptions with the Commission's Docket Control at the address listed below by 4:00 p.m. on or before:

APRIL 25, 2005

The enclosed is NOT an order of the Commission, but a recommendation of the Administrative Law Judge to the Commissioners. Consideration of this matter has tentatively been scheduled for Open Meeting to be held on:

MAY 3 AND 4, 2005

For more information, you may contact Docket Control at (602)542-3477 or the Hearing Division at (602)542-4250. For information about the Open Meeting, contact the Executive Secretary's Office at (602) 542-3931.


BRIAN C. McNEIL
EXECUTIVE SECRETARY

ARIZONA CORPORATION COMMISSION
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1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 COMMISSIONERS

3 JEFF HATCH-MILLER, Chairman
4 WILLIAM A. MUNDELL
5 MARC SPITZER
6 MIKE GLEASON
7 KRISTIN K. MAYES

8 IN THE MATTER OF THE APPLICATION OF
9 ARIZONA WATER COMPANY, AN ARIZONA
10 CORPORATION, TO EXTEND ITS EXISTING
11 CERTIFICATE OF CONVENIENCE AND
12 NECESSITY IN VARIOUS PARTS OF
13 MARICOPA COUNTY, ARIZONA.

DOCKET NO. W-01445A-05-0007

DECISION NO. _____

OPINION AND ORDER

10 DATE OF HEARING:

April 8, 2005

11 PLACE OF HEARING:

Phoenix, Arizona

12 ADMINISTRATIVE LAW JUDGE:

Marc E. Stern

13 APPEARANCES:

Mr. Robert Geake, Vice President and General
Counsel, on behalf of Arizona Water Company;
and

Mr. David Ronald, Staff Attorney, Legal
Division, on behalf of the Utilities Division of
the Arizona Corporation Commission.

16 **BY THE COMMISSION:**

17 On January 7, 2005, Arizona Water Company ("Company" or "Applicant"), filed an
18 application for an extension of its Certificate of Convenience and Necessity ("Certificate") with the
19 Arizona Corporation Commission ("Commission") to provide public water utility service to various
20 parts of Maricopa County, Arizona.

21 On February 7, 2005, Staff issued notice that the application had met the sufficiency
22 requirements of A.A.C. R14-2-411(C).

23 On February 9, 2005, by Procedural Order, a hearing was scheduled for April 8, 2005 and
24 other dates were set for publication of notice and procedural filing by parties to the proceeding.

25 On April 8, 2005, a full public hearing was convened before a duly authorized Administrative
26 Law Judge of the Commission at its offices in Phoenix, Arizona. The company and Staff appeared
27 with counsel. At the conclusion of the hearing, the matter was taken under advisement pending
28

1 submission of a Recommended Opinion and Order to the Commission.

2 * * * * *

3 Having considered the entire record herein and being fully advised in the premises, the
4 Commission finds, concludes, and orders that:

5 **FINDINGS OF FACT**

6 1. Pursuant to authority granted by the Commission, the Company is an Arizona
7 corporation which is engaged in the business of providing water service to approximately 67,000
8 customers in portions of Gila, Navajo, Cochise, Maricopa, Pima, Yavapai, Coconino and Pinal
9 Counties, Arizona.

10 2. On January 7, 2005, the Company filed an application for an extension of its
11 Certificate for its White Tank system in an unincorporated area of Maricopa County near 179th
12 Avenue and Van Buren Street to provide service to an area which is marked Exhibit A, attached
13 hereto and incorporated herein by reference.

14 3. Notice of the application was provided in accordance with the law.

15 4. On March 14, 2005, Staff filed its Staff Report recommending conditional approval of
16 the application following a hearing.

17 5. The Company has been requested to provide water service to approximately a 20 acre
18 parcel of land owned in large part by Destiny Phoenix, LLC ("Destiny") which operates a 250 pad
19 RV park that serves winter visitors. The parcel is adjacent to Applicant's existing certificated service
20 area.

21 6. The RV park previously provided water service to its rental pads as part of the rental
22 fee, but in October 2004, the Maricopa County Environmental Services Department ("MCESD") shut
23 down the park's well and Destiny requested service from the Company. As a result, Applicant is
24 presently providing water service to Destiny by means of a two inch meter connected to an existing
25 main of the Company.

26 7. Applicant projects that future customer growth in the extension area will result in, at
27 most, 1 more new connection since the RV park occupies almost the entire extension area, and the
28 remaining parcel for development consists of approximately one acre that may be utilized for a

1 convenience store which could also be attached to an existing Company water main without the need
2 for a new main extension or the addition of backbone plant.

3 8. The Company's witness indicated that its White Tank system has ample backbone
4 plant to serve the extension area described in Exhibit A.

5 9. To serve the requested area, the Company will utilize its existing production,
6 distribution and storage system.

7 10. No other municipal or public service corporations provide water service in the
8 proposed service area described in Exhibit A.

9 11. The Company's Maricopa County franchise includes the requested extension area.

10 12. The Company will provide service to the extension area at its existing rates and
11 charges on file with the Commission for its White Tank system.

12 13. Staff reviewed the water production and storage capacity of Applicant's White Tank
13 system and believes that it has adequate facilities and the technical expertise to provide service in the
14 requested extension area.

15 14. According to the Staff Report, the Company is in full compliance with the rules of the
16 Arizona Department of Environmental Quality ("ADEQ") and is providing water which meets the
17 requirements of the Safe Drinking Water Act and the MCL requirements. However, the arsenic
18 levels for certain of the Company's White Tank system wells exceed the new 2006 arsenic maximum
19 contaminant level ("MCL") of 10 parts per billion ("ppb"). As a result, the Company is in the
20 process of developing a treatment plan for its White Tank system to meet the new arsenic standard by
21 utilizing a cost recovery method consistent with that recently approved for the Company's Western
22 Group in Decision No. 67518 (January 20, 2005).

23 15. The Company is current on the payment of its property and sales taxes, and is in
24 compliance with its operating and filing requirements which are subject to the Commission's
25 jurisdiction.

26 16. Pursuant to Decision No. 66235 (September 16, 2003), the Company has a
27 Curtailment Tariff which has been approved for all of the Company's systems.

28 17. Staff believes that there is a public need and necessity for water service to the

1 requested extension area and that the issuance of an extension to Applicant's Certificate is in the
2 public interest.

3 18. Staff recommended that the Commission approve the Company's application subject
4 to the condition that the Company charge its existing rates and charges for its White Tank system in
5 the proposed extension area.¹

6 19. Staff's recommendation in Findings of Fact No. 18 is reasonable.

7 **CONCLUSIONS OF LAW**

8 1. Applicant is a public service corporation within the meaning of Article XV of the
9 Arizona Constitution and A.R.S. §§ 40-281, 40-282 and 40-252.

10 2. The Commission has jurisdiction over the Company and the subject matter of the
11 application.

12 3. Notice of the application was provided in accordance with the law.

13 4. There is a public need and necessity for water utility service in the proposed service
14 area described in Exhibit A.

15 5. Applicant is a fit and proper entity to receive an extension of its Certificate.

16 6. The application to extend the Certificate for the area described in Exhibit A should be
17 granted subject to the condition set forth in Findings of Fact No. 18.

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26 ¹ Although Staff had initially recommended that Applicant timely file certain compliance documents in its Staff
27 Report, at the hearing, after hearing that new main extensions or backbone plant would not be added to serve the
28 extension area, Staff amended its Staff Report. Staff deleted the following requirements for filing: a copy of the
Certificate of Assured Water Supply; a copy of a main extension agreement; and, a copy of the Certificate of Approval to
Construct.

ORDER

IT IS THEREFORE ORDERED that the application of Arizona Water Company for an extension of its Certificate of Convenience and Necessity for the operation of a water utility in the area more fully described in Exhibit A be, and is hereby approved, provided that Arizona Water Company complies with the condition as set forth in Findings of Fact No. 18 hereinabove.

IT IS FURTHER ORDERED that this Decision shall become effective immediately.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

CHAIRMAN

COMMISSIONER

COMMISSIONER

COMMISSIONER

COMMISSIONER

IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive Secretary of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this ____ day of _____, 2005

BRIAN C. McNEIL
EXECUTIVE SECRETARY

DISSENT _____

DISSENT _____

MES:mlj

1 SERVICE LIST FOR: ARIZONA WATER COMPANY

2 DOCKET NO. W-01445A-05-0007

3 Robert W. Geake
4 Arizona Water Company
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9 Ernest Johnson, Director
10 Utilities Division
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BEGINNING at the Southeast corner of Section 3, Township 1 North, Range 2 West of the Gila and Salt River Base and Meridian, Maricopa County, Arizona;
Thence West (assumed) along the centerline of Van Buren Street, a distance of 2316.81 feet to a point on the South right-of-way line of the Roosevelt Irrigation District Canal;
Thence North 63 Degrees 46 Minutes 30 Seconds East, along the South line of said Canal, a distance of 1544.96 feet to a point on a curve;
Thence easterly along said curve, concave to the South, having a radius of 526.02 feet, through a central angle of 41 Degrees 5 Minutes 50 Seconds, an arc length of 377.30 feet;
Thence South 75 Degrees 07 Minutes 40 Seconds East, along said South line of said Canal, a distance of 582.70 feet to a point on the East Section line of said Section 3;
Thence South 00 Degrees 03 Minutes 30 Seconds East, along said Section line, a distance of 569.80 feet to the POINT OF BEGINNING.

EXHIBIT A

DECISION NO. _____